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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/706,394	11/12/2003	Kurt Kung	RANPP0316USB	6852
23908	7590	11/09/2004	EXAMINER	
RENNER OTTO BOISSELLE & SKLAR, LLP			DURAND, PAUL R	
1621 EUCLID AVENUE			ART UNIT	
NINETEENTH FLOOR			PAPER NUMBER	
CLEVELAND, OH 44115			3721	

DATE MAILED: 11/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/706,394	<b>Applicant(s)</b> KUNG ET AL. 	
	<b>Examiner</b> Paul Durand	<b>Art Unit</b> 3721	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 31 August 2004.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 31-43 and 58-64 is/are pending in the application.
- 4a) Of the above claim(s) 58-64 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 31-43 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>11/03.02/04</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election of invention I in the reply filed on 8/31/2004 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claims 31-43 will be examined on the merits.

2. Claims 58-64 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 8/31/2004.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 31,32,34,36 and 41 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Mason et al (US 2,786,399).

In regard to claim 31, Mason discloses the invention as claimed including forming assembly 14, pulling assembly comprised of wheels 20 and fingers 32, a transfer region

comprised of moving grippers in the form of opposed roller 23 and 24 which gather the material in the apertures between fingers 33 (see Figs. 1-3 and C2,L72 – C4,L46).

In the alternative, while Mason discloses his invention as being used for filter elements, the examiner takes Official Notice that the disclosed invention could also be used to manufacture dunnage.

In regard to claim 32, Mason discloses the invention as claimed including deforming opposite sides of the dunnage through grippers 33 (see Figs.1-3).

In regard to claim 34, Mason discloses the invention as claimed including opposing grippers 33 which overlap the dunnage (see Figs.1-3).

In regard to claim 36, Mason discloses the invention as claimed including a pulling assembly comprised of transfer members in the form of fingers 32 which moved towards each other in an upstream movement and away from each other in a downstream movement and releases the dunnage (see Figs. 1-3 and C2,L72 – C4,L46).

In regard to claim 41, Mason discloses the invention as claimed including guiding a strip of dunnage 10 through a constriction member 40 by grippers 32, located downstream (see Figs.1-3).

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 33,35,37-40,42 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mason et al in view of Nilsson (US 4,938,739).

In regard to claims 33,35,37,42 and 43, Mason discloses the invention substantially as claimed except for the use of moving the grippers in a longitudinal direction through a transfer region. However, Nilsson teaches that it is old and well known in the art of deforming material to provide grippers in the form of folding elements 3, which are longitudinally offset and transversely arranged from each other and are moved through a transfer region in a paired, non circular relationship, closing on the material 4 in an upstream position and opening away from the material on a downstream position for the purpose of transferring and deforming a material (see Fig. 1-3 and C1,L53 – C2,L43). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided the invention of Mason with the longitudinally traveling elements taught by Nilsson for the purpose of transferring and deforming a material.

In regard to claims 38-40, the modified invention of Mason discloses the invention substantially as claimed including the movement of grippers in a non-circular longitudinal direction. What the modified invention of Mason does not specifically teach is the synchronization of the members as they are moved. However, the examiner takes Official Notice that it is old and well known in the art to synchronize the movement of the working members as they move through a working area for the purpose of increasing machine efficiency.

***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Villoresi, Moss, Johnson, Ratzel et al and Simmons have been cited to show devices having similar structure.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Durand whose telephone number is 703-305-4962. The examiner can normally be reached on 0730-1800, Monday - Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I Rada can be reached on 703-308-2187. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Paul Durand  
November 3, 2004

  
EUGENE KIM  
PRIMARY EXAMINER